

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

INA STEINER, DAVID STEINER, and
STEINER ASSOCIATES, LLC,

Plaintiffs,

V.

EBAY INC., et al.,

Defendants.

Civil Action No. 21-CV-11181-PBS

MOTION OF EBAY INC. TO MODIFY SCHEDULING ORDER

Defendant eBay Inc. (“eBay”) respectfully moves to modify the scheduling order entered on October 18, 2023 and subsequently modified on February 28, 2024 and April 10, 2024 (“Scheduling Order”). *See* Dkt. 275, 354, 358. As grounds for this motion, eBay states as follows:

1. On May 3, 2024, following Plaintiffs' change in counsel, Plaintiffs' new counsel requested a 30-day extension for production of documents, and a global 30-day extension of the deadlines in the Scheduling Order.

2. On May 6, 2024, counsel for eBay circulated to all parties the proposed modifications to the Scheduling Order set forth in the table below. In the interest of advancing the litigation, eBay conditioned the proposal on Plaintiffs’ commitment to produce their medical records, business/income loss records, and certain other categories of documents—all of which they had previously committed to produce by May 8, 2024—by May 20, 2024, and to complete their document productions by June 7, 2024.

3. Defendants Baugh, Cooke, Gilbert, Harville, Jones, Popp, Progressive F.O.R.C.E. Concepts, LLC, Wymer, and Zea have assented to the proposed schedule. Defendant Wenig takes

no position, and Defendant Stockwell has not provided her position. Plaintiffs responded on May 9, 2024 that they are presently unable to commit to the proposed deadlines.

4. The parties leave the trial-related dates—for joint pretrial memorandum, final pretrial conference, and trial—to be addressed with the Court during the May 10, 2024 hearing.

5. eBay proposes keeping the August 15, 2024 mediation deadline. eBay, Plaintiffs, and several other parties had discussed a June 17, 2024 date for mediation with mediator Paul Finn. In light of the Plaintiffs' change in counsel, the mediator released that date as a potential mediation date. Plaintiffs' counsel has indicated that Plaintiffs may still be amenable to mediation on June 17. Accordingly, eBay has requested that the mediator continue to hold that date or provide alternate dates in June. eBay is still interested in holding a mediation on or near that date.

Proposed Scheduling Order Modifications

Current Deadline	Proposed Deadline	Deadline Description
Fact Discovery		
N/A	5/20/24	Plaintiffs' production of all medical records, business/income loss records, and other documents Plaintiffs initially committed to produce by May 8, 2024
N/A	6/7/24	Completion of Plaintiffs' production of documents responsive to RFPs
5/29/24	7/17/24	Requests for Admission
8/29/24	9/27/24	Fact witness depositions
8/29/24	9/27/24	Completion of fact discovery
Mediation		
8/15/24	8/15/24	Parties commit to participate in a mediation
Expert Discovery		
6/5/24	7/19/24	Completion of IMEs
6/5/24	7/19/24	Plaintiffs' designation of experts and information contemplated by Rule 26(a)(2)
6/26/24	8/9/24	Defendants' designation of experts and information contemplated by Rule 26(a)(2)
7/18/24	8/30/24	Rebuttal expert reports
8/15/24	10/25/24	Completion of expert depositions and discovery
8/22/24	11/1/24	<i>Daubert</i> motions

		Dispositive Motions
9/13/24	11/22/24	Dispositive motions (motions for summary judgment or judgment on the pleadings)
10/16/24	12/20/24	Oppositions to dispositive motions
11/1/24	1/13/25	Reply memoranda
11/15/24	1/27/25	Sur-reply memoranda
12/5/24 2:30 PM	TBD	Oral argument on motions for summary judgment

WHEREFORE, eBay requests that the Court modify the Scheduling Order as set forth in the table above.

Dated: May 9, 2024

Respectfully submitted,

/s/ Jack W. Pirozzolo

Jack W. Pirozzolo (BBO #564879)
Kathryn L. Alessi (BBO #651110)
SIDLEY AUSTIN LLP
60 State Street, 36th Floor
Boston, MA 02109
Telephone: (617) 223-0300
Facsimile: (617) 223-0301
jpirozzolo@sidley.com
kalessi@sidley.com

Scott T. Nonaka (*pro hac vice*)
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 772-1285
snonaka@sidley.com

Daniel J. Feith (*pro hac vice*)
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, D.C. 20005
Telephone: (202) 736-8511
dfeith@sidley.com

Counsel for eBay Inc.

CERTIFICATION PURSUANT TO L.R. 7.1(a)(2)

I, Jack W. Pirozzolo, counsel for eBay, hereby certify that, in accordance with Local Rule 7.1(a)(2), I have conferred with counsel for all represented parties and with the *pro se* party. Defendants Baugh, Cooke, Gilbert, Harville, Jones, Popp, Progressive F.O.R.C.E. Concepts, LLC, Wymer, and Zea have assented to the proposed schedule. Defendant Wenig takes no position, and Defendant Stockwell has not provided her position. Plaintiffs responded on May 9, 2024 that they are presently unable to commit to the proposed deadlines.

Dated: May 9, 2024

/s/ Jack W. Pirozzolo

Jack W. Pirozzolo

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2024, this document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: May 9, 2024

/s/ Jack W. Pirozzolo

Jack W. Pirozzolo